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Aspects of Hospital Criminalization in Medical Malpractice Cases That Can Create a Noble Healthcare Industry

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Abstract: *Hospital criminalization in medical malpractice cases is an increasingly relevant legal issue as hospitals transform from social institutions into socio-economic entities in the modern healthcare industry. The constitutional right to health requires the state to ensure the provision of safe, high-quality, and equitable healthcare services. However, law enforcement practices are still dominated by an individual accountability approach that leads to the criminalization of healthcare workers and ignores the role of hospital policies and service systems. This situation creates an imbalance of justice for both patients and healthcare workers and fails to encourage institutional improvement. This study aims to analyze the normative regulation of hospital criminalization as a corporation, identify the problems of its implementation, and formulate an ideal concept of criminalization that aligns with substantive justice and the social function of hospitals. The method employed is normative legal research with a statutory and conceptual approach, through a study of health law, criminal law, and the doctrine of corporate criminal liability. The results show that the regulation of hospital criminalization still contains unclear parameters of institutional error and does not fully accommodate a systemic approach. Hospital criminalization should be positioned as a corrective instrument that encourages improved governance, a culture of patient safety, and ethical healthcare practices. This allows criminal law to play a role in safeguarding the humanitarian and social function of hospitals as part of the noble healthcare industry.*

Keywords: *hospital criminalization; medical malpractice; corporate criminal liability; healthcare law.*

Introduction

The right to health occupies a fundamental position in Indonesia's constitutional framework as an integral part of human rights, inseparable from human dignity itself (Basuki 2020). Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia affirms the guarantee of adequate health services, while Article 34 paragraph (3) places the state's responsibility for providing health care facilities (Rahman 2025). This guarantee is not merely normative but also carries a philosophical message that health is a primary prerequisite for humans to live a meaningful social, economic, and cultural life (Maulana 2024). At this point, health care is not merely a technical medical matter, but rather a concrete manifestation of the protection of citizens' constitutional rights (Kesuma 2024).

The history of hospitals demonstrates a long transformation that reflects changes in the social structure of society. In its early phase, hospitals grew as charitable institutions rooted in humanitarian values and social solidarity, particularly through the role of religious and philanthropic organizations (Koroni 2025). This development coexisted with the existence of state-owned hospitals aimed at supporting public and military interests (Kadompi 2024). Over time, the modernization of the healthcare system pushed hospitals into complex service organizations that no longer relied solely on charitable principles but also on structured management, technology, and financing (Jeremia 2023).

Developments in healthcare science and technology accelerated the transformation of hospitals into modern, capital-intensive, and technology-intensive entities (W. B. Ginting 2024). The evolution of the healthcare sector, often mapped through the waves of healthcare industry 1.0 to 5.0, demonstrates that healthcare services are increasingly integrated with digital technology, industrial pharmaceuticals, electronic medical records, and personalized service approaches (Santoso 2025). This transformation has the logical consequence of increasing complexity in hospital governance, from administrative, financial, and legal aspects, requiring serious legal adaptation.

This change has given rise to a fundamental paradox between the social function of hospitals and their unavoidable economic orientation. On the one hand, hospitals remain positioned as public institutions carrying out a humanitarian mission. On the other hand, the need for operational sustainability places hospitals within the logic of efficiency, productivity, and profit (Supriyanto 2023). This tension is increasingly felt in private hospitals that operate within market mechanisms, potentially shifting healthcare services from service-oriented values to business rationality.

The significant growth in the number of hospitals over the past decade reinforces the notion that the healthcare sector has become a promising investment arena (Hammad 2022). The dominance of private hospitals demonstrates that market mechanisms play a significant role in the distribution of healthcare services (Manggala 2024). This quantitative growth does not always translate into equitable service quality and can even widen the gap in access for certain groups. This reality raises serious questions about the extent to which hospitals' social function remains intact amidst the expansion of the healthcare industry.

The National Health Insurance System (BPJS Kesehatan) presents its own unique dynamics in the delivery of hospital services. Package-based financing schemes and tiered referrals create complex administrative and operational pressures. High patient loads, limited human resources, and reliance on digital systems increase the potential for service failure (Nurhabibah 2025). This situation not only impacts the quality of care but also increases the risk of procedural errors that can lead to legal disputes.

Medical risks are an inherent part of healthcare practice and can never be completely eliminated. Every medical procedure carries the potential for complications, depending on the patient's condition, the technology used, and the individual's biological responses (Satriawan 2024). The principle of volenti non fit injuria is often used as a basis for understanding that patients are aware of certain risks in medical procedures (Pujiyono 2023). However, this understanding cannot be used simplistically to eliminate legal liability in the event of a violation of professional standards or systemic failure.

Medical risk should be distinguished from malpractice by assessing whether the adverse outcome occurred despite compliance with professional standards, clinical guidelines, and established procedures. Medical risk represents an unavoidable consequence inherent in healthcare services, whereas malpractice arises from negligence, violations of professional standards, inadequate supervision, or systemic organizational failures that contribute to patient harm. This distinction is essential to prevent the overcriminalization of healthcare institutions and to ensure that criminal liability is imposed only when there is clear evidence of culpable conduct rather than the mere occurrence of an unfavorable medical outcome.

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The development of hospitals as socio-economic entities in the modern healthcare industry has given rise to new complexities in medical service practices and criminal law enforcement, particularly in medical malpractice cases, which have been dominated by the individual accountability approach of healthcare workers (Kolib 2020). This pattern tends to ignore the role of hospital policy, management, and organizational culture as systemic factors that contribute to service failures, thus potentially creating substantive injustice for both patients and healthcare workers and failing to encourage institutional improvement. Based on these conditions, this study specifically examines the criminalization of hospitals as autonomous subjects of corporate criminal law, placing institutional errors as the primary focus of analysis (Intiasari 2025). The novelty of this research lies in the paradigm shift from individual criminalization to hospital criminal accountability that is oriented towards corrective and preventive, rather than merely repressive, in order to encourage governance improvements, strengthen a culture of patient safety, and protect the right to health. In line with this objective, the title "Aspects of Hospital Criminalization in Medical Malpractice Cases that Can Create a Noble Health Industry" was chosen to emphasize that hospital criminalization is not intended as a destructive instrument of punishment, but rather as a legal mechanism that maintains a balance between economic orientation, social function, and humanitarian values in the provision of health services (Rodliyah 2020).

Methodology

This study employs a normative legal research method enriched with a conceptual and a statutory regulatory approach to examine the criminalization of hospitals as subjects of corporate law in medical malpractice cases. Normative legal research was chosen because the focus of the study is directed at the analysis of positive legal norms, the principles of criminal law, and the doctrine of corporate criminal liability that has developed in modern legal literature. The statutory regulatory approach is used to systematically examine the

provisions on hospital criminalization in the Health Law, the Hospital Law, the Old Criminal Code, and the New Criminal Code, including assessing consistency, normative gaps, and potential problems in their implementation. The conceptual approach is used to build a theoretical framework regarding corporate wrongdoing, non-imprisonment penalties, and the corrective function of criminal law in the health sector. Primary legal materials in the form of statutory regulations are reviewed alongside secondary legal materials such as books, scientific journals, and the opinions of criminal law and health law experts. The analysis was conducted qualitatively with prescriptive and argumentative reasoning in order to formulate an ideal concept of hospital criminalization that is in line with the values of substantive justice, protection of the right to health, and the social function of hospitals as part of an ethical health industry.

Result and Discussion

Normative Regulations for Hospital Criminalization in Medical Malpractice Cases

The regulation of hospital liability in Indonesia is rooted in a classical health legal regime and is heavily influenced by the early post-independence welfare state paradigm. Law No. 18 of 1953 concerning the Care of Poor Families and the Underprivileged reflects the view that health services are understood as a moral obligation of the state to vulnerable groups. Hospitals are positioned as social instruments carrying out humanitarian mandates without a structured legal accountability dimension. This regulatory orientation does not yet recognize hospitals as complex organizations with modern governance. Accountability is primarily attached to service functions, rather than institutional structures.

Subsequent developments are evident in Law No. 9 of 1960 concerning the Principles of Health, which began to organize the national health system. The regulation broadened the scope of public health regulation and recognized the role of health facilities as part of the development system. Hospitals were still considered public service facilities under state control, both directly and indirectly. The dimensions of errors and sanctions were not yet directed at institutions, but rather at administrative or disciplinary violations. This regulatory style indicates that health law at that time functioned more as an instrument of social regulation than as a means of criminal accountability.

Significant changes emerged with the modernization of healthcare services and the increasing complexity of hospital organizations. Healthcare norms began to shift from a charitable approach to a professional and managerial one. Hospitals evolved into organizations involving multiple professions, advanced medical technology, and increasingly complex financing systems. This situation prompted the need for a more robust legal framework regarding institutional responsibility. This shift marked the transition to the modern phase of healthcare law.

Law Number 44 of 2009 concerning Hospitals marked a significant milestone in the recognition of hospitals as independent legal entities. This regulation explicitly outlined hospitals' obligations to provide safe, high-quality, and equitable healthcare services. Hospitals were required to implement good governance, a quality control system, and a patient complaints mechanism. These obligations demonstrated that service errors were no

longer understood solely as the fault of individual healthcare workers. This regulation opened up conceptual space for the attribution of responsibility at the institutional level.

Law Number 36 of 2009 concerning Health strengthened this regulatory direction by incorporating criminal sanctions against corporations. Criminal health norms began to recognize the possibility of criminal liability for healthcare providers, including hospitals. This regulation demonstrates that criminal law no longer turns a blind eye to service system failures. However, the formulation of criminal norms remains general and does not provide clear operational guidance for law enforcement officials. This situation leaves wide room for interpretation in judicial practice.

The reformulation of health law through Law Number 17 of 2023 concerning Health introduces an omnibus approach that unifies various previous regulatory regimes. Hospitals are affirmed as legal entities performing health service functions within the national system. The criminal norms in this law open up the possibility of criminalizing corporations for certain violations in the health sector. This expansion of criminal law subjects acknowledges the reality of hospital organizations as entities capable of structural error. However, this regulation still leaves behind technical issues in proving institutional fault.

Regulations on hospital criminalization are also inseparable from the general provisions of criminal law. Article 59 of the old Criminal Code has long opened up the possibility of criminal liability for managers and corporations. The norm provides the basis for criminal acts to be attributed to legal entities through individuals acting for and on their behalf. Although classical, this provision served as the initial foundation for the development of the corporate liability doctrine. Its application in healthcare cases remains limited and rarely affects hospitals as institutions.

The reform of Law Number 1 of 2023 concerning the Criminal Code strengthens the position of corporations as subjects of criminal law. Article 45 of the new Criminal Code more systematically regulates corporate misconduct and its accountability. The concept of mens rea is no longer understood individually but can instead be derived from policies, organizational culture, and systemic negligence. The approach aligns with the character of hospitals as complex organizations that operate through collective decisions. This normative framework provides broader opportunities to examine institutional culpability.

Although normative provisions for hospital criminalization are in place, law enforcement practices demonstrate a tension between the validity of these norms and their applicability. While criminal health law norms are formally valid, they are rarely used to prosecute hospitals as corporations. Law enforcement officials tend to revert to the pattern of personalizing the misconduct of healthcare workers. This pattern demonstrates structural resistance to applying the concept of institutional culpability. As a result, the potential for hospital criminalization remains abstract.

The existing normative construction also faces the problem of proving institutional culpability. Criminal procedural law remains oriented toward proving individual actions and culpability. Parameters for assessing system failure, managerial policies, or organizational culture have not been operationally formulated. The absence of systemic

criminal sanctions makes it difficult to prosecute hospitals even when there are indications of structural failure. This situation demonstrates that normative reform has not been fully accompanied by reform of the law enforcement paradigm.

Hospital Criminal Liability Practices in Medical Malpractice Cases

The pattern of criminal law enforcement in medical malpractice cases in Indonesia still shows a strong tendency to place blame on individual healthcare workers. This approach stems from the classical perspective of criminal law, which focuses on personal actions and mistakes. Medical workers are positioned as primary actors, independent of the service system and policies of the institution in which they work. This perspective simplifies the reality of healthcare practices that actually occur within complex organizations. As a result, the institutional dimension of hospitals is often overlooked in the legal assessment process.

The dominance of individual responsibility creates a legal narrative that assumes service failures always stem from negligence or professional error on the part of healthcare workers. This narrative ignores the fact that medical procedures occur within a work structure influenced by busy schedules, limited facilities, management policies, and administrative pressures. Healthcare workers work not as independent actors but as part of a system that regulates their mobility. Reducing errors to personal issues has the potential to create substantive injustice. The burden of accountability becomes unequal because the institution where the error occurred is not examined.

The practice of criminalizing healthcare workers arises as a consequence of a law enforcement pattern that focuses solely on consequences. Every incident that results in disability or death of a patient tends to be immediately interpreted as a criminal incident. The legal process proceeds without a thorough analysis of the structural conditions of healthcare services. Healthcare workers face significant psychological and professional pressure due to the threat of criminal penalties. The situation may reduce the quality of care due to the emergence of defensive practices in medical procedures.

The marginalization of the role of hospitals is evident in the minimal efforts of law enforcement to examine internal policies and management systems. Hospitals are often treated simply as locations where incidents occur, rather than as legal entities with organizational will. Yet, decisions regarding staff numbers, workload distribution, equipment availability, and budget allocation are made at the managerial level. Neglecting this aspect causes the law enforcement process to lose its structural dimension. Systemic errors remain hidden behind individual errors.

The failure to uncover systemic errors is rooted in a criminal law perspective that has not fully adapted to the realities of modern organizations. Hospital management plays a crucial role in determining the quality of healthcare services. Policies that prioritize cost efficiency without considering the workload of healthcare workers can create error-prone conditions. An unbalanced service system opens up opportunities for procedural failures. However, these factors are rarely included in criminal charges.

Financial pressure is a significant variable in hospital healthcare practices. Hospitals are required to maintain operational sustainability by achieving specific economic indicators. This pressure can influence clinical and administrative decision-making.

Limitations on service hours, healthcare worker-to-patient ratios, and cost-cutting policies have the potential to impact service quality. The relationship between financial pressure and malpractice risk is rarely addressed in criminal law enforcement processes.

Hospital internal oversight also reveals various structural weaknesses. Clinical audit mechanisms, medical committees, and incident reporting systems often operate suboptimally. A defensive organizational culture allows errors to be hidden rather than subjected to evaluation. These internal oversight failures contribute to the recurrence of similar errors. However, these failures are rarely considered as a basis for institutional criminal liability.

The impact of this law enforcement pattern is felt directly by patients, the injured parties. Patients often derive a false sense of satisfaction from criminal proceedings that only punish individuals without improving the service system. The losses experienced are not always followed by structural improvements that prevent similar incidents. Public trust in healthcare services is not fully restored. Protection of patient rights is suboptimal because the root of the problem is not addressed.

Healthcare workers also experience legal victimization due to an unequal approach to law enforcement. A profession that should be carried out with scientific and ethical considerations is transformed into an activity shadowed by fear. Legal uncertainty fosters a defensive attitude that can harm patients. The relationship between healthcare workers and institutions becomes unbalanced as more responsibility is shouldered by individuals. This situation has the potential to undermine the professionalism and integrity of healthcare services.

The erosion of the social function of hospitals is emerging as a long-term consequence of the failure to enforce the law fairly and proportionally. Hospitals are increasingly perceived as business entities safe from criminal liability. The humanitarian function inherent in healthcare institutions is marginalized. Criminal law loses its role as a corrective instrument for systemic failures. This situation reinforces the urgency of a paradigm shift in healthcare criminal law enforcement that places hospitals as the subject of real responsibility.

The Ideal Concept of Hospital Penalties Towards a Respected Healthcare Industry

Hospital penalties cannot be understood merely as a reactive punishment for criminal law violations. The essence of penalties in the healthcare sector lies in their function as a corrective instrument aimed at improving the overall governance of healthcare services. Hospitals are not simply locations where legal incidents occur, but rather institutions with structures, policies, and work cultures that influence the quality of medical services. A system-oriented approach to penalties reflects the state's efforts to safeguard the right to health without undermining the sustainability of public services. This corrective orientation positions criminal law as a mechanism for institutional learning, not a tool for revenge.

Justice in hospital criminalization requires a balance of interests between patients as the injured party, healthcare workers as professionals, and hospitals as administrators of the service system. Patients need recognition of their suffering and assurances that similar incidents will not recur. Healthcare workers need protection from excessive criminalization

resulting from system failures beyond their individual control. Hospitals themselves must be positioned as legal entities responsible for their policies and managerial decisions. This balance can only be achieved if criminalization is directed at the true source of the problem.

The ideal model for hospital criminalization rejects a uniform approach to all forms of violations. The level of institutional culpability must be the primary basis for determining the type and severity of criminal sanctions imposed. Administrative errors with limited impact cannot be treated the same as systemic negligence that repeatedly endangers patient safety. Gradual sentencing allows for differentiation between minor, moderate, and serious offenses. This pattern reflects the principle of proportionality that underlies modern criminal law.

Non-imprisonment-based corporate criminal sanctions have strong relevance for hospitals as public service institutions. Rationally designed fines can serve as economic pressure without crippling healthcare operations. Obligations to improve systems, restructure management, or improve patient safety standards have a more tangible preventative impact. Special oversight by health authorities can also be included in criminal sentences. This series of sanctions demonstrates that the primary goal of criminal punishment is not the termination of services, but rather institutional transformation.

The integration of administrative and criminal sanctions is an urgent need in health law enforcement. Serious violations rooted in institutional policies cannot be resolved solely through administrative reprimands. Conversely, criminal sanctions, imposed alone without administrative follow-up, have the potential to lose their long-term effectiveness. Synchronizing the two sanction regimes allows for a more comprehensive handling of hospital violations. This integrated approach strengthens the state's oversight function over the healthcare industry.

Reformulating health criminal law enforcement requires a shift in perspective from individual culpability to systemic failure. Hospitals must be understood as complex organizations whose decisions directly impact medical practice. Law enforcement parameters need to accommodate analysis of internal policies, resource allocation, and patient safety culture. Law enforcement that focuses on institutional structures reflects a more realistic understanding of the dynamics of modern healthcare. This approach also reduces the tendency for scapegoating of healthcare workers.

Proving corporate misconduct in hospitals requires clear and measurable indicators. The existence of standard operating procedures, internal oversight mechanisms, and institutional responses to medical incidents can serve as benchmarks for accountability. Systematic non-compliance indicates institutional failure worthy of criminal accountability. Such parameters help law enforcement officials distinguish between individual errors and organizational failures. Clarity of indicators also increases legal certainty for all parties.

Synergy between law enforcement officials and health authorities is a prerequisite for successful hospital criminal prosecution. Handling medical malpractice cases requires interdisciplinary understanding that cannot be met by a purely legal approach. Health authorities have the technical capacity to assess service standards and the quality of hospital management. This collaboration enriches the evidentiary process and prevents simplistic

legal conclusions. Institutional cooperation reflects the state's commitment to protecting the right to health.

The concept of "noble industry" positions hospitals as socio-economic entities that uphold ethics and humanity. Economic orientation cannot be separated from moral responsibility for patient safety and the well-being of healthcare workers. Hospital criminal prosecution serves as a reminder that financial gain should not compromise human values. Criminal law plays a role in maintaining a balance between business efficiency and the social mission of hospitals. This position affirms that the healthcare industry has higher moral standards than other economic sectors.

The contribution of hospital criminal justice to substantive justice lies in its ability to restore public trust. Patients receive assurance that serious violations will not go unaccounted for. Healthcare workers receive protection from law enforcement practices that simplify complex issues. Hospitals are encouraged to engage in introspection and continuous improvement. Humanistically and systematically designed criminal justice ultimately strengthens humanity as the core of healthcare.

Conclusion

Hospital criminalization in medical malpractice cases does not fully reflect developments in modern criminal law, which focuses on institutional accountability. Law enforcement practices tend to focus on individual responsibility, casting healthcare workers as the primary perpetrators of wrongdoing, while often overlooking the influence of hospital policies, management decisions, and organizational culture. The situation creates an imbalance of justice, both for patients who suffer harm and for healthcare workers working within a less-than-ideal system. Existing normative regulations have indeed created space for criminal liability for hospital corporations, but they lack clear, operational evidentiary parameters and sentencing models. It concludes that hospital criminalization should be positioned as a corrective instrument that encourages continuous improvement of the healthcare system, in line with the social function of hospitals and the principle of protecting the right to health as part of human dignity.

Recommendations emphasize the need for a more systemic and humane reformulation of healthcare criminal law enforcement. Lawmakers need to formulate more explicit provisions regarding the parameters of hospital corporate misconduct, including indicators of managerial failure, internal policies, and patient safety culture. Law enforcement officials need to be equipped with an interdisciplinary understanding to comprehensively assess medical malpractice cases and avoid being trapped by the logic of criminalization alone. Health authorities are expected to actively participate in the law enforcement process to ensure that criminal decisions align with improving the quality of healthcare services. Hospitals, as institutions, are also required to establish transparent, ethical, and patient-safety-oriented governance. These steps are expected to guide hospital criminalization toward the realization of a noble and civilized healthcare industry.

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